



A PLAN TO CREATE THE BALTIMORE CITY LAND BANK



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Introduction

For many years, Baltimore has been plagued by problems associated with its large stock of vacant property. Periodically and repeatedly over the past decade, various government officials, housing experts and citizens have analyzed and discussed the benefits of creating a land bank to help address Baltimore's vacant property problem. Perhaps overwhelmed by the enormity of the vacant property problem, or mired in the day-to-day task of managing the effects of the problem with limited resources, those discussions have never resulted in the creation of a land bank.

At the request of Mayor Sheila Dixon, the Department of Housing and Community Development has developed a plan to create a land bank that can be implemented within twelve months. The rationale for that plan and an outline of action steps follows.

Problem Statement

For the purpose of this Plan, "abandoned property" means, a privately owned property that is:

- 1) an unoccupied structure or vacant lot on which taxes are in arrears;*
- 2) a building cited as vacant and unfit for human habitation on a housing or building violation notice; or*
- 3) an undevelopable lot or a vacant building that has deteriorated to the point where the building is structurally unsound or the cost of rehabilitation significantly exceeds the post rehabilitation market value.*



A. *Abandoned Properties Harm the City*

There are nearly 30,000 abandoned properties (structures and lots) in Baltimore City. These properties comprise nearly 13% of the total property in the City (see Table 1.1 and Chart 1.1). The City currently owns nearly 10,000 vacant properties, or 1/3 of all vacant property in the City. Approximately 4,000 City-owned vacant properties are vacant structures. In other words, the City owns about twenty percent (25%) of all vacant residential buildings in Baltimore. These buildings are uninhabitable and many are either beyond repair or are too costly to repair.



Table 1.1

Total # of Parcels in City	224,816	Percentage
# of Underutilized Parcels ¹	17,718	8%
# of Vacant Lots	11,198	5%
Total Vacant Parcels in City	28,916	13%

Chart 1.1

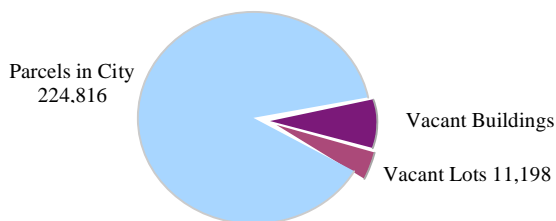
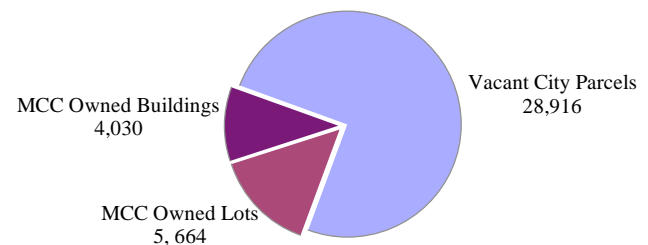


Chart 2.1



¹ The term "underutilized parcel" derives from a report issued by the Department of Planning. As used in this Plan, an underutilized parcel is a residential property that is cited by a housing inspector as a vacant building or a residential property that is on a block face where 70% or more of the properties are vacant.

Abandoned properties drain money from innocent homeowners, cost the City money, and reduce the quality of life in affected neighborhoods. According to a study by Temple University of vacant properties in Philadelphia, abandoned housing on a block can reduce the value of all other properties by an average of \$6,720.² Among other things, the reduced value prevents other homeowners from building wealth. More directly, a city's failure to collect even a small percent of delinquent property taxes due to abandonment can result in billions of lost revenues.³

The impact of abandoned property goes beyond dollars and cents. Neighbors must live amid eyesores that attract crime, arson, vermin, and dumping. Dilapidated buildings are safety and fire hazards, cause damage to adjoining properties, and lower the quality of life for a community. In a city with a shortage of affordable housing, abandoned properties are a visible reminder that too few citizens have a decent, safe and affordable place to live.

B. Existing City Efforts Do Not Adequately Respond to the Magnitude of the Problem.

Existing City processes for tax collection and for property acquisition and disposition do not fully address the abandoned property problem and sometimes unintentionally cause further harm.

The current tax collection and foreclosure processes help perpetuate problems associated with abandoned property. It typically takes the City more than three years to foreclose upon and dispose of a single abandoned property. Existing policies relating to tax liens emphasize revenue collection over neighborhood development. Tax lien purchasers are primarily interested in the liquidated value of abandoned properties and not in the development of the neighborhood. Older residents who miss a single tax payment fall prey to private tax sale purchasers whose aim is to collect high fees and interest.

Although the City has made major strides to acquire abandoned properties through Project 5,000 (and now has title to approximately 10,000 such properties), the existing processes for selling City property are difficult to understand, needlessly complex and require duplication of effort by City agencies. The sale of a single property is labor-intensive and involves no fewer than a dozen city actors. Although HCD plays a primary role in the sale of most City property, responsibility is fragmented between the Comptroller's Real Estate office, the Space Utilization Committee, the Department of Finance, the Law Department, the City Council and the Board of Estimates.

² Temple University Center for Public Policy and Eastern Pennsylvania Organizing Project, "Blight Free Philadelphia: A Public-Private Strategy to Create and Enhance Neighborhood Value," Philadelphia, 2001.

³ Alan Mallach, Research Director for the National Housing Institute suggests that abandonment rates as low as 5 % can send a neighborhood or community spiraling out of control. These insights and other impacts of vacant properties are compiled in *Vacant Properties and Smart Growth—creating opportunity from abandonment*, Livable Communities @ Work (September 2004), written by John Bailey and edited by Cheryl Little and published by the Funder's Network for Smart Growth and Livable Communities.

Current pricing policies place Community Development Corporations, neighborhood groups, and local developers at a competitive disadvantage. In most circumstances, the City seeks the maximum sales price for its property rather than achieving a development outcome. The complex sales process and the price policy favor buyers most familiar with the “system” and discourages participation by new buyers and developers of mixed and affordable housing. A collection of anecdotes highlighting some of the obstacles to selling City property can be found in Appendix 1.

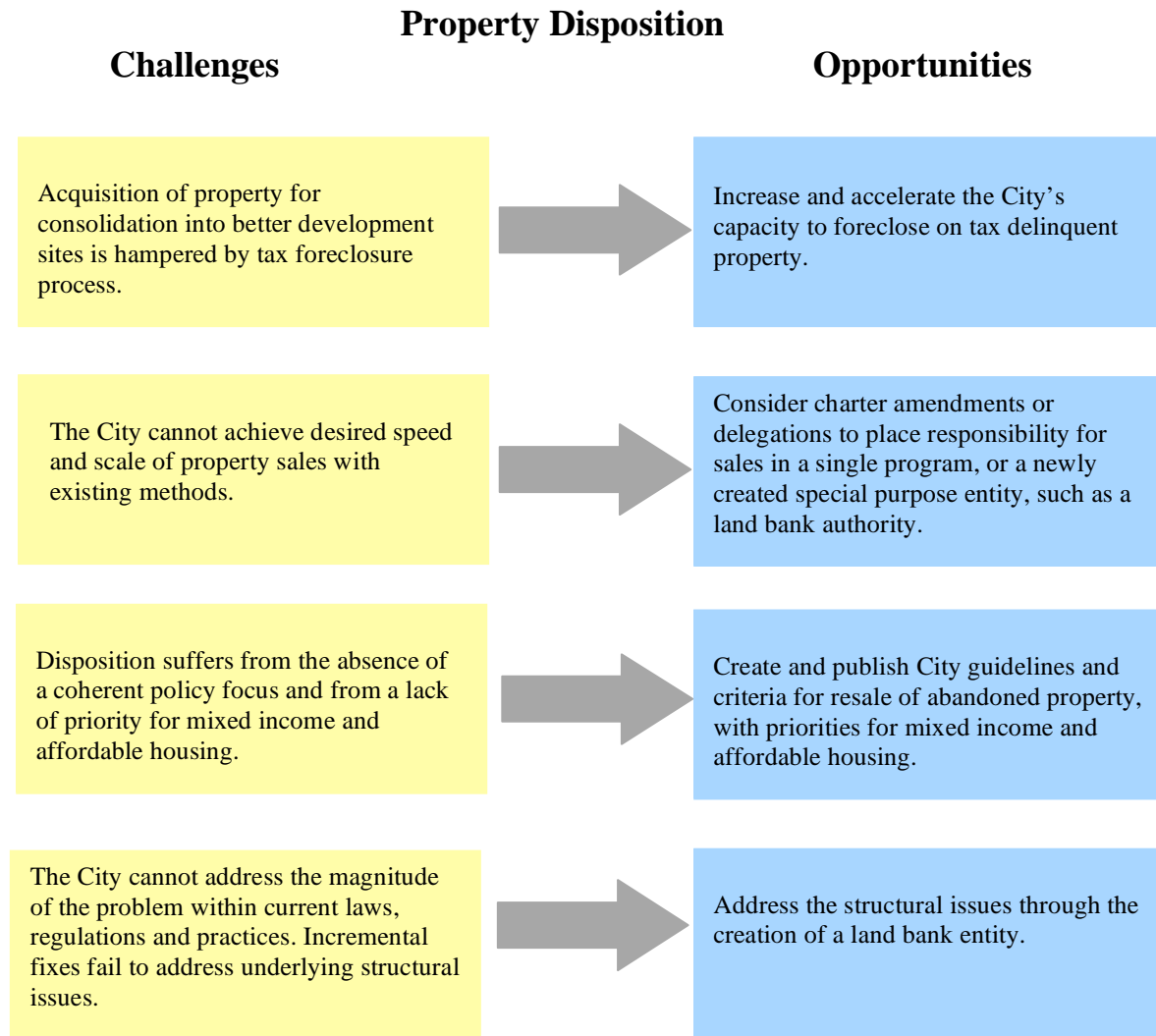
A new set of tools is needed to acquire and sell abandoned property. A report by the National Vacant Properties Campaign found that, while Baltimore City’s efforts to combat problems associated with abandoned property are making a positive impact, “a number of **existing enforcement mechanisms lack sufficient strength and efficiency** to address the complexity and quantity of properties the City is hoping to address.” (emphasis added). A full copy of the report can be found in Appendix 2.

Returning abandoned properties to productive use will require that the City: (1) make improvements to the time consuming and cumbersome tax sale foreclosure processes, (2) develop sales policies that favor neighborhood development, and (3) develop policies and procedures to streamline and accelerate the processes for selling City property.



Challenges and Opportunities: Abandoned Property in Baltimore

Following a comprehensive study last year of Baltimore's policies strategies relating to abandoned property, the National Vacant Property Campaign issued a report with specific findings and recommendations. The challenges and opportunities include:



Property Acquisition

Challenges

The number of abandoned properties exceeds the City's foreclosure capacity. Many properties cycle through the tax sale process every two years.



Opportunities

Increase and accelerate the City's capacity to foreclose on tax delinquent property.

Maryland's tax foreclosure process is time consuming and uncertain.



Accelerate and standardize the foreclosure process for abandoned properties.

Annual tax lien sales transfer foreclosure rights to third parties interested in liquidating property. Speculators have financial incentives to displace homeowners and destabilize neighborhoods.



Eliminate or restrict the sale of tax certificates to speculative purchasers.

Tax lien sales transfer interest earnings to a third party. These funds could otherwise be available to the City for property maintenance and redevelopment.



Capture interest on delinquent tax payments to support property maintenance and redevelopment.

Asset Management

Challenges

City lacks sufficient sources of funds for maintenance, stabilization and demolition.



Opportunities

Tap new sources of funds, like interest from delinquent tax collections, to cover the maintenance, stabilization and demolition costs

City cannot quickly or nimbly respond to property maintenance demands.



Create a special purpose entity with agility to respond to maintenance demands.

Intermingling of privately owned abandoned properties and City owned properties limits the City's ability to sell, stabilize or demolish City property.



Increase and accelerate the City's capacity to foreclose on tax delinquent property.

Goals and Objectives:

To create a land bank entity with the responsibility and capability to efficiently acquire, manage and sell abandoned property for productive use.

Measurable Outcomes

The goals and objectives should be linked to specific and measurable outcomes. A few suggested outcomes follow:

- ⇒ Reduce the amount of privately owned abandoned and blighted property in Baltimore City to less than 7.5% of the overall total of properties in the City by 2012.
- ⇒ Eliminate the speculative and predatory private tax sale market for abandoned property by 2010.
- ⇒ Increase the number of newly constructed or rehabbed units of housing in blighted neighborhoods by 25% in three years beginning January 1, 2009.

Immediate Recommended Strategy

To meet the immediate objective of accelerating and streamlining the disposition and property management processes, HCD recommends simultaneously pursuing three immediate action steps.

Step #1 Amend the City Code to grant HCD the authority to directly sell abandoned property within its jurisdiction subject to routine auditing and reporting requirements.

The Housing Department (HCD) exercises the City's charter powers to hold property "for development and redevelopment." The City Code (Article 13, section 2-7(f)) currently requires that contracts for the sale of such properties require the prior approval of the Board of Estimates "as to the legal and financial ability of the contracting parties." The City Council could amend the Code to alter this requirement so that the review process does not forestall property sales and is proportionate to the nature and value of the vacant property inventory.

The current Board of Estimates approval process impedes sales in two ways: (1) its primary focus is to obtain a high sales price (i.e. not less than appraised value) and (2) the formal pre-approval process adds several months' time to the sale of City property.

Recommendation: Request that City Council amend Article 13, Section 2-7(f) of the Code to permit HCD to directly sell abandoned properties subject to routine auditing and reporting requirements.

Seeking such a change to the City Code is desirable because it will:

- ✓ *Lessen the time, expense and administrative burden associated with maintaining and selling abandoned properties (faster sales mean reduced holding costs for the City and will generate tax revenues sooner).*
- ✓ *Broaden and define criteria by which HCD can sell property.* Currently, there are no universally accepted policies for selling City property.
- ✓ *Adopt universal sales policies and priorities with input from the City Council and other stakeholders (see discussion of sales policies in Step 3, below).*

Step #2 Place the responsibility for abandoned property suitable for development or redevelopment under management and control of a central agency.

The City's real property inventory is divided, somewhat arbitrarily, among different City agencies, including: HCD, Recreation and Parks and the Real Estate Office of the Comptroller. Moreover, hundreds of properties under the Comptroller's jurisdiction are intermingled with HCD and other agencies' properties on the same block. Except on a limited, case-by-case basis, HCD and the Real Estate office have failed to agree upon a shared strategy for marketing and disposing of these parcels. As a result, developers attempting to acquire City properties in a single block often must conduct separate negotiations with two City offices. The division of responsibility hurts the City's development efforts, most especially for mixed income and affordable housing, by adding unnecessary process delays.

HCD has authority to acquire and sell property for "development and redevelopment," under Article II, Section 15 of the City Charter and Article 13, Section 2-7(b)(1) of the City Code. There is no clear policy guiding the determination of whether a property is suitable for development or redevelopment. Consequently, the assignment of agency responsibility for a property typically fails to take this into account. These assignments are made by staff members at the Department of Public Works who have no direct connection to the acquisition or re-development process.

The Department of Real Estate, within the Comptroller's Office, has general responsibility for the acquisition, sale, lease, or other disposition of real property that is not classified as a "development and redevelopment" opportunity (as defined in Article II, Section 15 of the City Charter.) The Real Estate Department is principally responsible for identifying, acquiring and/or leasing real property needed to meet the land and space needs of city agencies and offices. The Department of Real Estate's core sale's responsibility is to "arrange for the disposition of any building or parcel of land **no longer needed** by the City for public use," According to Article V, §5(b) of the Charter (emphasis added). This role was created in a different historical context -- at a time when the City did not have high levels of abandoned property -- and, thus, is ill suited to the current demands of acquiring, managing and selling a large inventory of vacant property. The Real Estate office lacks the staff or resources to manage, market and sell the potentially thousands of city-owned property that should be sold for development and redevelopment.

A full review of the agency assignments of the entire City property inventory is warranted. The Mayor has authority to direct DPW to audit its policies and practices for assigning property, to review the current property assignments and, as appropriate, to re-assign jurisdiction to HCD for any property that is suitable for "development and redevelopment" purposes. Similarly, a review would help ensure that the City's core assets -- those real property assets that are directly connected to the function of City government (e.g. city office buildings) -- are assigned to the Real Estate office or other appropriate agency.

Recommendation: Under newly prepared guidelines, review the City's real property inventory and assign HCD to manage and sell all property, currently owned or henceforth acquired, suitable for development or redevelopment.

This Mayoral initiative is desirable because it will:

- ✓ Consolidate responsibility for the management, marketing and sale of abandoned property suitable for development or redevelopment within a single agency with the necessary resources and staff.
- ✓ Eliminate duplicative negotiations and reviews that result in added expense and delay for developers without a corresponding benefit for the City.
- ✓ Allow the Real Estate office to concentrate its limited resources on a smaller, more specialized inventory of property. For example, the Real Estate office could oversee certain transactions, like office leases, or certain core properties, like surplus libraries.
- ✓ Allow the City to more easily consolidate smaller parcels into larger, more flexible development tracts.

Step #3 Create a non-profit land bank entity with authority to acquire, maintain, and sell abandoned property on behalf of the City.

The City's efforts to manage and sell City property within a dynamic real estate market are hampered by the City's rules relating to procurement and to staff recruitment and retention. The time required to procure services, ranging from appraisals to property maintenance and repair, delays sales and maintenance efforts. Past workarounds have provided only temporary relief and typically come with high associated costs.

Recommendation: Create a non-profit land bank entity with authority to acquire, maintain and sell abandoned property on behalf of the City.⁴

A special purpose, non-profit entity could provide professional services to acquire, maintain and sell abandoned property. Significantly, the entity would NOT:

- ✗ be able to acquire property through eminent domain;
 - ✗ hold title to property (with possible rare exception like donations);
 - ✗ enjoy City's property liability protections (therefore will not hold title to property, as a rule);
 - ✗ avoid open meeting or freedom of information laws;
 - ✗ have power to extinguish liens; or
 - ✗ be able to expedite foreclosures
- (the creation of a land bank authority under State law with some of these powers is further described at the end of this section)

A board of directors comprised of various private individuals, elected officials and agency representatives would govern the entity. HCD recommends that the City Comptroller and President of the Baltimore City Council, or their designees, serve on the Board of Directors. In addition, the Board of Directors should represent a diversity of interests such as city development agencies, community development corporations, faith-based organizations, real estate professionals, affordable housing advocates, citywide neighborhood-based organizations, and elected officials. HCD recommends that the non-profit entity be bound in its incorporating documents to adhere to the state's open meeting laws and to the City's MBE/WBE standards.

HCD recommends the entity have its own staff and a dedicated budget.⁵ Proceeds from the sale of property should be retained by the entity and recycled to support the work of the entity (as shown in the accompanying report at Appendix 5, the City has reaped nearly \$8 million in sales proceeds in the past three Fiscal Years). The proposed entity would be bound by a set of by-laws and detailed policies that specify the scope of its authority and that clearly define sales price policies and priorities. A sample residential sales policy from another jurisdiction is attached as Appendix 6. All contracts for the sale of property would require the approval of the Commissioner of Housing, acting as the Executive Director. In defined circumstances (such as

⁴ A proposed timeline for implementing of a non-profit land bank is shown in Appendix 3.

⁵ HCD estimates that such an entity would require an initial operating budget of \$1.4 Million. A draft budget is included as Appendix 4.

high value properties), the additional approval of the Board of Directors would likely be required.

The primary benefits to creating such an entity are:

- ✓ Further streamlining the process for selling City property by reducing redundant approvals.
- ✓ Greater flexibility in recruiting and hiring professional staff and procuring services from vendors.
- ✓ Establishing clearly defined policies relating to the disposition of property (See sample policies at Appendix 7).

Looking Forward – Issues for Further Review
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The above three action steps will improve the process for the sale and maintenance of abandoned City-owned property. Additional reforms, however, would be required to:

- accelerate the acquisition of abandoned property,
- minimize speculative investment by private tax sale purchasers, and
- tap additional revenue sources for property maintenance and demolition.

HCD recommends that the City consider seeking enactment of state and local legislation for the creation of a land bank authority that would replace the land bank entity recommended above. Creating a land bank authority with broader powers than the local land bank entity, in combination with various changes to the tax sale foreclosure system, could provide benefits beyond those highlighted in the preceding sections. Among other things, a land bank authority could:

- ✓ possess the power to acquire and hold title to property (though NOT by eminent domain)
- ✓ be capable of expedited tax foreclosure and acquisition of abandoned property
- ✓ be able to extinguish municipal liens
- ✓ enjoy the City's property liability protection
- ✓ be exempt from property taxes and other charges like recording fees and transfer taxes on both the acquisition and sale of its properties

- ✓ be able to restrict or eliminate tax sales to speculative private purchasers
- ✓ be able to capture interest earnings from tax delinquent property to support redevelopment of neighborhoods.

Creating a land bank authority requires state enabling legislation and subsequent adoption by the City. The structure and governance of a land bank authority will ideally mimic that of the proposed non-profit entity described above.

State legislation is also required to alter the tax sale foreclosure system. Among the changes HCD recommends considering are:

- Clarifying that liability for unpaid liens in a foreclosure proceeding is limited to *in rem* liability (i.e. debtor has no residual personal liability for the outstanding liens).
- Enacting a single-step judicial tax foreclosure process (eliminate the non-judicial lien sale to private purchasers).
- Shortening the time period in which an owner of abandoned property has a right to redeem (i.e. pay off the liens).
- Reducing the time for commencing a foreclosure proceeding for abandoned property.
- Permitting bulk petitions to foreclose on property (more than one property per foreclosure suit).
- Requesting a special rule from the Court of Appeals for electronic submission of pleadings.

A full range of possible reforms can be found in the 2006 Report from the National Vacant Property Campaign, attached at Appendix 2.

Because a new state law must be enacted to create a Land Bank Authority, HCD recommends that the policy and process implications of such legislation be further examined. The City should consider hiring outside consultants to examine the implications and feasibility of this model in conjunction with immediately implementing the 3 action steps discussed above.

Conclusion

The immediate implementation of these three action steps will help accelerate and streamline the processes for managing and selling City property by adopting clearly defined policies and by creating a land bank entity with primary responsibility for such property.

The City should review the implications and feasibility of enacting state and local legislation to create a land bank authority with greater and more flexible tools to further streamline, accelerate and improve the acquisition, property management and disposition processes.

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Appendix 5: Report on revenues from sale of City property -- FY 2005 through Second Quarter of 2007

Appendix 6: Residential Land Transfer Policies from Genesee County (MI) Land Bank